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C O N F I D E N T I A L SECTION 01 OF 02 TBILISI 001479

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DEPARTMENT FOR EUR/CARC AND DRL

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TAGS: PGOV PREL GG

SUBJECT: JUDICIAL REFORM: MOVING FORWARD

REF: A. TBILISI 1242

- 1B. TBILISI 281
- 1C. TBILISI 284
- 1D. TBILISI 1299
- 1E. TBILISI 767

Classified By: AMBASSADOR JOHN F. TEFFT. REASONS: 1.4 (B) AND (D).

11. (C) SUMMARY: Georgian officials admit privately that judicial reform was not high on the list of reform projects immediately following the Rose Revolution. It was deemed too hard to accomplish quickly, and as a result, was slow to get started. International pressure, however, has moved this crucial area to the forefront. On June 8, Deputy Chairman of the Parliamentary Legal Committee (and Saakashvili insider) Giga Bokeria confirmed to Poloff that a draft law banning ex parte communications was introduced in Parliament the week of June 4. He expects it to pass this year as part of a judicial reform package that will also repeal Soviet-era laws which provided criminal and administrative sanctions against judges for making an "incorrect decision." In addition, both Bokeria and Chief of the Tbilisi Appeals Court Eka Tkeshelashvili provided additional details on the Irakli Batiashvili case (reftel A). He was recently convicted for providing assistance to rebel warlord Emzar Kvitsiani. They claimed that his case has been carried out in accordance to Georgian law. End summary.

BAN ON EX PARTE COMMUNICATIONS INTRODUCED IN PARLIAMENT

12. (C) Georgian officials admit privately that judicial reform was not high on the list of reform projects immediately following the Rose Revolution in 2003. Although there was some internal debate, those supporting immediate reform of the judiciary lost to those supporting prioritizing reform of the patrol police, educational system, and fighting corruption. As a result, this important reform was slow to get started. Still, starting last year, the Government began a comprehensive effort to reform the judiciary to increase its independence (reftels B and C). The biggest change was the constitutional amendment passed at the end of 2006 that removed the President from the High Council of Justice, the judicial disciplinary body. Other reforms included: prosecuting corrupt judges, improving the court system's efficiency, and introducing jury trial legislation.

13. (C) Still, progress on some key issues lagged, including an ex parte communications ban (reftel D). After pressure from the Embassy, Department and international officials, however, the Georgians now understand the importance of undertaking concrete judicial reforms expeditiously to increase the independence of the judiciary. On June 8, Deputy Chairman of the Parliamentary Legal Committee Giga Bokeria said that the draft law barring ex parte

communications was introduced in Parliament the week of June 14. It will include sanctions on judges, lawyers and third parties who violate the law. He expects it to pass this year as part of a judicial reform package that will also repeal Soviet-era laws that punished judges, both criminally and administratively, for making an "incorrect ruling." Removing the threat of sanctions against judges for their decisions should, we believe, increase judicial independence.

MAGISTRATE SYSTEM, HIGH SCHOOL OF JUSTICE ON TRACK

¶14. (C) In a separate meeting on June 5, Eka Tkeshelashvili, Chief of the Tbilisi Court of Appeals, confirmed to Poloff that the magistrate system was on track to improve court efficiency and administration of justice. She clarified, however, while magistrates could determine whether an individual should be held in pre-trial detention or released on bail, they still lack authority to dispose of criminal matters. Thus, while the number of people detained in pre-trial detention pending release may be diminished, the time necessary to resolve the criminal matter may not be reduced. Similarly, she confirmed that the High School of Justice had completed its curriculum for training new judges (reftel E). It is now under review with the High Council of Justice, of which she is a member. She said the curriculum was well done and believed it would be ready by October, when the High School would accept its first group of judges.

MORE DETAIL ON BATIASHVILI CASE

¶15. (C) Tkeshelashvili also responded to questions about the TBILISI 00001479 002 OF 002

trial of Irakli Batiashvili, who was recently convicted for providing assistance to rebel warlord Emzar Kvitsiani (reftel A). When asked why the judge and the prosecutor - according to press reporting - had not listened to the primary evidence during the trial, she said that under current Georgian law, neither the judge nor the lawyer are required to listen to primary evidence. She noted, however, that she was not familiar with the details of the case. Tkeshelashvili said the new Criminal Procedure Code and other reforms will require a more rigid evidential review. (Note: When asked about this on June 8, Bokeria claimed that the tapes were played in court and heard by both the judge and the lawyers. He offered to check and confirmed this again the next day after consulting with the Ministry of Justice. End note.)

¶16. (C) When asked why the judge did not explain of the verdict, Tkeshelashvili said that Georgian law does not require a judge to explain the ruling when entering a judgment. Instead, judges have fourteen days to draft a publicly available explanation. Judges routinely do not provide explanations when entering a judgment for the Court of First Instance in the interests of time and according to this rule. Tkeshelashvili noted that the Court of Appeals is building a website to disseminate the explanations more widely. Ultimately, a similar website will be created for the Court of First Instance.

COMMENT

¶17. (C) Comment. There is no doubt still a long way to go before Georgia has an independent judiciary, but these steps are encouraging indicators that the Georgians have both received our message and are starting to move in the right direction. Indeed, we heard that President Saakashvili canceled a planned trip to the U.S. by Bokeria so that Bokeria could get the draft law on ex parte communication introduced into Parliament. On the Batiashvili case,

although this information from Government and Parliament sources indicates that the case was tried in accordance to Georgian law, it is impossible for us to determine, as the opposition claim, that the evidence against him did not merit the ruling. We will continue to follow the case. Upon our request, Deputy Prosecutor General Nona Tsotsoria said she would ensure we received a copy of the explanation of verdict. End comment.

TEFFT